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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/804,561

03/19/2004

William A. Groll

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09/06/2007

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EXAMINER

FLETCHER III, WILLIAM P

ART UNIT

PAPER NUMBER

1762

MAIL DATE

DELIVERY MODE

09/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/804,561

Applicant(s)

GROLL, WILLIAM A.

Examiner

William P. Fletcher III

Art Unit

1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The compliant amendment filed May 29, 2007, and the remarks filed February 23, 2007, are noted with appreciation.
2. Claims 1-17 are now pending.

Election/Restrictions

3. Claims 1-10 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on June 30, 2006.

Response to Arguments

4. The objection to the title, set forth in paragraph 6 of the Office action mailed September 20, 2006, is withdrawn in view of the amendment filed May 29, 2007.
5. The rejection under 35 USC 112, 2nd Paragraph, set forth in paragraph 8 of the Office action mailed September 20, 2006, is withdrawn in view of the amendment filed May 29, 2007.
6. Applicant's arguments, with respect to the prior art rejections, set forth in the Office action mailed September 20, 2006, have been fully considered, but they are not persuasive.

A. Applicant argues that Becker fails to teach a metal-ceramic as instantly claimed. The Examiner disagrees. Becker specifically states: "If desired, the ceramic particles may include metallic components as illustrated by Example 2,

such that the porous ceramic body contains the metallic components as well.”

See 3:45-48. As such, this argument is not persuasive.

B. Applicant further argues that Becker fails to teach the high-temperature spraying recited in the claims, as amended. The Examiner agrees that Becker fails to teach this feature, but it is the Examiner’s position that such would have been obvious to one of ordinary skill in the art as a well-known expedient for applying the metal-ceramic composition recited in Becker, per the new grounds of rejection set forth below.

C. Applicant also argues that Becker teaches that the ceramic particles reside below the layer of the release agent. The Examiner disagrees. In the passage cited by Applicant, Becker refers to this arrangement as “preferred.” Applicant is reminded that patents are part of the literature of the art, relevant for all they contain; that a reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art, including non-preferred embodiments; and that disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or non-preferred embodiments. See MPEP 2123. Becker’s broad teaching is merely of an impregnated pore structure and, as such, continues to read on the claims.

D. Finally, Applicant argues against the combination with Groll. The Examiner disagrees. The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of a primary reference. Rather, the test is what the combined teachings of those references would have

suggested to those of ordinary skill in the art. See MPEP 2145(III). It is not the Examiner's position that the Groll be physically combined with Becker. Rather, the Examiner relies upon Groll merely for the broad teaching of the desirability of a smooth cookware surface. As such, Applicant's argument is not persuasive.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 11 and 13-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

A. Claim 11 has been amended to recite "high temperature spraying," which is not fully supported by the originally-filed specification, which specifically discloses high temperature arc spraying, plasma spraying, or oxyacetylene spraying, but not the any and all kinds of spraying encompassed by the term "high temperature spraying" (see paragraphs [0004] and [0022]).

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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10. Claims 11-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. Claim 11 has been amended to recite "upstanding sharp peaks," which is indefinite because it is unclear how "sharp" or "dull" the peaks must be to be considered "sharp" within the context of the invention. While claim 16 recites an after-smoothing surface roughness of 10 ra, there is no definition of before-smoothing surface roughness.

Claim Rejections - 35 USC § 103

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

12. Claims 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Becker (US 4,204,021 A) in view of Groll (US 6,360,423 B1) and Bullock (US 5,320,879 A).

A. Becker and Groll are applied herein again as set forth in the prior Office action (09/20/2006) and as explained above.

B. With respect to the added limitation of high temperature spraying, it is the Examiner's position that high temperature spraying is a well known expedient for the application of ceramic coating material and would have been an obvious alternative to the non-limiting deposition technique of Becker. Bullock is cited to solely to show that silicon dioxide and, consequently, the glass frit of Becker, is capable of being deposited by high temperature spraying [3:4-16] and, this,

provides a reasonable expectation of successfully depositing the coating material of Becker by high temperature spraying.

C. With respect to the added porosity limitation, Becker teaches a 15% porosity [4:3-6].

D. With respect to the added limitation requiring vacuum impregnation, Becker teaches vacuum techniques [6:51-68].

E. With specific respect to claims 14 and 17, it is the Examiner's position that the porosity of the film is a result-effective variable effecting the continuity, strength, and cohesion of the film, and it would have been obvious to optimize this variable by routine experimentation, absent evidence of unexpected results.

See MPEP 2144.05.

F. With further respect to claim 17, it is the Examiner's position that chromium oxide is a known non-stick material and would have been an obvious expedient to one of ordinary skill in the art.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. The prompt development of clear issues in the prosecution history requires that applicant's reply to this Office action be fully responsive (MPEP § 714.02). When filing an amendment, applicant should specifically point out the support for any amendment made to the disclosure, including new or amended claims (MPEP §§ 714.02 & 2163). A fully responsive reply to this Office action, if it includes new or amended claims, must therefore include an explicit citation (i.e., page number and line number) of that/those portion(s) of the original disclosure which applicant contends support(s) the new or amended limitation(s).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Fletcher III whose telephone number is (571) 272-1419. The examiner can normally be reached on Monday through Friday, 0900h-1700h.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy H. Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William Phillip Fletcher III/
Primary Examiner

September 3, 2007